

CV 13-5389

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TANEAN JOHNSON,

Plaintiff,

-against-

RONALD MONTAS (Shield No. 6330) and
JOHN and JANE DOE 1 through 10, individually
and in their official capacities (the names John and
Jane Doe being fictitious, as the true names are
presently unknown),

Defendants.
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COMPLAINT

Jury Trial Demanded

WEINSTEIN, J.

POHORELSKY, M.J.

NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

JURY DEMAND

5. Plaintiff demands a trial by jury in this action.

FILED
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U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

PARTIES

6. Plaintiff Tanean Johnson ("plaintiff" or "Ms. Johnson") is a resident of Kings County in the City and State of New York.

7. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. It operates the NYPD, a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.

8. At all times relevant defendant Ronald Montas was a police officer, acting as an agent, servant and employee of defendant City of New York and the NYPD. Ronald Montas is sued in his individual and official capacities.

9. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

10. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of defendant City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

11. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

12. At approximately 6:30 a.m. on March 29, 2012, plaintiff was lawfully within her rented room located at 330 Dumont Avenue, Apt 16G in Brooklyn, NY.

13. Plaintiff and her boyfriend, Anthony Spearman were the only two people within her bedroom at that time. There was a lock on the bedroom door.

14. Plaintiff and Spearman heard loud banging on the bedroom door and plaintiff opened the door to see what was going on.

15. Police, including the defendants, dressed in riot gear with large guns and Kevlar vests, burst into the room.

16. Defendants ordered plaintiff to get down to the ground and he complied.

17. Despite the fact that defendants recovered no contraband from the room, and had no other probable cause to arrest plaintiff, they placed him in handcuffs and under arrest.

18. Plaintiff was eventually taken to the police precinct.

19. At the precinct the officers falsely informed employees of the Kings County District Attorney's Office that they had observed plaintiff in possession of cocaine, a weapon and marijuana. At no point did the officers observe plaintiff,

possess any contraband.

20. Approximately 6:30 a.m. on March 30, 2012, plaintiff was taken to Brooklyn Central Booking.

21. After over 2 days in custody, plaintiff was arraigned in New York County Criminal Court and released.

22. Plaintiff appeared in criminal court several times before his case was dismissed.

23. Plaintiff suffered damage as a result of defendants' actions. Plaintiff was deprived of his liberty, suffered emotional distress, mental anguish, fear, pain, bodily injury, anxiety, embarrassment, humiliation, and damage to his reputation.

FIRST CLAIM
42 U.S.C. § 1983

24. Plaintiffs repeat and re-allege each and every allegation as if fully set forth herein.

25. Defendants, by their conduct toward plaintiffs alleged herein, violated plaintiffs' rights guaranteed by 42 U.S.C. § 1983, the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

26. As a direct and proximate result of this unlawful conduct, Plaintiffs sustained the damages hereinbefore alleged.

SECOND CLAIM

False Arrest

27. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

28. Defendants violated the Fourth and Fourteenth Amendments because they arrested plaintiff without probable cause.

29. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

THIRD CLAIM **Malicious Prosecution**

30. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

31. By their conduct, as described herein, and acting under color of state law, defendants are liable to plaintiff under 42 U.S.C. § 1983 for the violation of his constitutional right to be free from malicious prosecution under the Fourth and Fourteenth Amendments to the United States Constitution.

32. Defendants' unlawful actions were done willfully, knowingly, with malice and with the specific intent to deprive plaintiff of his constitutional rights. The prosecution by defendants of plaintiff constituted malicious prosecution in that there was no basis for the plaintiff's arrest, yet defendants continued with the prosecution, which was resolved in plaintiff's favor.

33. As a direct and proximate result of defendants' unlawful actions, plaintiffs have suffered, and will continue to suffer, damages, including physical, mental and emotional injury and pain, mental anguish, suffering, humiliation, embarrassment and loss of reputation.

FOURTH CLAIM
Failure To Intervene

34. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

35. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

36. Accordingly, the defendants who failed to intervene violated the First, Fourth, Fifth And Fourteenth Amendments.


37. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

DATED: September 26, 2013
New York, New York



Robert Marinelli
299 Broadway, Suite 1501
New York, New York 10007
(212) 822-1427

Attorney for plaintiff


RELEASE PURSUANT TO C.P.L. 160.50

I, Tanean Johnson, pursuant to CPL § 160.50[1][d], hereby designate the Corporation Counsel of the City of New York, or his authorized representative, as my agent to whom records of the criminal action terminated in my favor entitled People of the State of New York v. Tanean Johnson, in Criminal Court, New York County, State of New York, relating to my arrest on or about 3/29/12.

I understand that until now the aforesaid records have been sealed pursuant to CPL §160.50, which permits those records to be made available only (1) to persons designated by me, or (2) to certain other parties specifically designated in that statute.

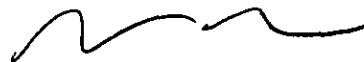
I further understand that the person designated by me above as a person to whom the records may be made available is not bound by the statutory sealing requirements of CPL § 160.50.

The records to be made available to the persons designated above comprise all records and papers relating to my arrest and prosecution in the criminal action identified herein on file with any court, police agency, prosecutor's office or state or local agency that were ordered to be sealed under the provisions of CPL § 160.50.



Tanean Johnson
SSN: 124-68-2832
DOB: 5-4-84

On 9/26/13, before me personally came and appeared Tanean Johnson, to me known and known to me to be the individual described in and who executed the foregoing instrument, and who duly acknowledged to me that he executed the same.



Notary Public

ROBERT J. MARINELLI
NOTARY PUBLIC-STATE OF NEW YORK
No. 02MA6220272
Qualified in New York County
My Commission Expires April 12, 2014